



## Georgia

### Country Reports on Human Rights Practices - [2003](#)

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Georgia is a republic with a Constitution that provides for a strong executive branch that reports to the President. The President appoints ministers with the consent of Parliament. Eduard Shevardnadze was reelected to a second term as President in a 2000 election with serious irregularities that was criticized by international observers. Parliamentary elections held on November 2 were marred by serious irregularities. Two major opposition parties organized peaceful street protests, and on November 23 President Shevardnadze resigned and Parliamentary Speaker Nino Burjanadze assumed the interim Presidency until an early presidential election scheduled for January 4, 2004. The Supreme Court annulled the results of the proportional parliamentary contests, but by year's end the date for the repeat of these elections had not been set. A civil war and separatist wars in the early 1990s ended central government authority in Abkhazia and South Ossetia and weakened central authority in the autonomous republic of Ajara and elsewhere in the country. The Constitution provides for an independent judiciary; however, the judiciary was subject to executive pressure and corruption.

The Ministry of Internal Affairs (MIA) and the Prosecutor General's Office have primary responsibility for law enforcement, and the Ministry of State Security plays a significant role in internal security. In times of internal disorder, the Government may call on the MIA or the military. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority. Some members of the security forces committed a number of serious human rights abuses.

Government efforts to develop a market-based economy were stifled by widespread corruption and mismanagement. The country had a total population of approximately 4.4 million, which represented a steep decline in population since the 1990 census. Agriculture represented approximately 19 percent of gross domestic product (GDP), and GDP during the first 6 months of the year increased 8.6 percent to \$1.8 billion. Official data indicated that more than 50 percent of the population lived below the poverty level. Government salaries, pensions, and payments to internally displaced persons (IDPs) remained in arrears. Wages failed to keep pace with inflation.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. Numerous serious irregularities in the November and previous elections limited citizens' right to change their government. Domestic and international observers criticized the November parliamentary election, citing inaccurate voter registration lists, manipulation of the results by election commissions, and the dramatic difference between the official election results and those reported in a parallel vote count and in exit polls. Numerous nongovernmental organizations (NGOs) blamed several deaths in custody on physical abuse, torture, or inhumane and life threatening prison conditions. NGOs reported that police brutality continued. Security forces continued to torture, beat, and otherwise abuse detainees. Corruption in law enforcement agencies remained pervasive. Arbitrary arrest and detention remained problems, as did lack of accountability. Reforms to create a more independent judiciary and ensure due process were undermined by failure to pay judges in a timely manner. There were lengthy delays in trials and prolonged pretrial detention remained a problem.

Law enforcement agencies and other government bodies occasionally interfered with citizens' right to privacy. The press generally was free; however, occasionally security forces and other authorities intimidated and used violence against journalists. Journalists practiced self-censorship. Security forces refrained from violently dispersing demonstrations in November. Government officials infringed upon freedom of religion and continued to tolerate discrimination, harassment, and violence against some religious minorities. In the trial of Orthodox extremist ex-priest Basili Mkalavishvili, his followers routinely threatened and harassed plaintiffs, as well as international observers. Violence against women was a problem. Trafficking for the purpose of forced labor and prostitution was a problem.

Internal conflicts in Abkhazia and South Ossetia remained unresolved. Ceasefires were in effect in both areas, although sporadic incidents of violence occurred in Abkhazia. These conflicts and the problems associated with approximately 270,000 IDPs from Abkhazia, 60,000 from South Ossetia, and 3,900 refugees from Chechnya posed a continued threat to national stability.

RESPECT FOR HUMAN RIGHTS

## Section 1 Respect for the Integrity of the Person

### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of political killings. However, there were 37 deaths in custody, and security force abuses reportedly contributed to several deaths. NGOs blamed several deaths in custody on physical abuse, including torture, electric shock, and beatings, which sometimes led to suicide.

On December 20, Giorgi Inasaridze was found hung in his pretrial detention cell a day after police detained him. Human rights groups considered the circumstances surrounding his alleged suicide suspicious and appealed to the MIA to open an investigation; however, the Government took no action.

Killings were committed by elements on both sides of the separatist conflict in Abkhazia, including partisan groups and forces of the Abkhaz separatist regime. Killings and other abuses on both sides of the conflict were not investigated, prosecuted, or punished adequately. During the year, the Government criticized these partisan groups but took no concrete action to curtail their activities, particularly those of Davit Shengelia, the leader of the partisan organization Forest Brothers.

Both government and Abkhaz forces laid tens of thousands of landmines during the 1992-93 fighting. There was a reduction in landmine casualties to seven during the year due to migration out of the area and to the activities of landmine clearing organizations such as the Halo Trust.

### b. Disappearance

There were no reports of politically motivated disappearances by government agents.

Partisan groups active in Abkhazia engaged in criminal activity and frequently took hostages to exchange for captured compatriots. Government and Abkhaz officials agreed on joint law enforcement efforts to prosecute kidnappers and other criminals that could threaten to destabilize the ceasefire. During the year, there were also many instances of kidnapping for ransom elsewhere in the country, which included both local and foreign citizens. The MIA reported 28 cases of kidnapping in the first half of the year and stated that investigations had resulted in charges in 8 of these cases. There was widespread speculation that corrupt law enforcement officials were involved in some of these kidnappings. Many citizens, including some Members of Parliament (M.P.s), alleged publicly that senior law enforcement officials were involved in kidnappings for ransom. Kidnapping of foreigners continued.

On February 12, Chechen refugee Adam Talalov disappeared after leaving his home in the Pankisi Gorge. His whereabouts remained unknown at year's end.

On June 5, unknown persons kidnapped three U.N. Military Observers and one translator serving with the U.N. Observer Mission in Georgia while they were patrolling in the Kodori valley. They were released on June 10. An investigation into the incident was ongoing at year's end.

The Minister of State Security publicly announced that the identities of the kidnappers of Peter Shaw, a British citizen kidnapped in early 2002 who later escaped, were known to authorities and alleged that Interior Ministry officials were involved in the abduction. The State Minister also publicly confirmed the possible involvement of government officials in the kidnapping. In July, the Government announced that it had detained four suspects; however, the investigation into the kidnapping was officially closed in October due to lack of a suspect. Foreign observers criticized the Government's investigation and alleged that political motivations prevented the Government from prosecuting the kidnappers.

The whereabouts of Chechen refugee Hussein Yusupov, who disappeared in 2002 after allegedly being released from a detention facility, remained unknown, and there were no developments in the case.

Government and Abkhaz commissions on missing persons reported that more than 1,000 Georgians and several hundred Abkhaz remained missing as a result of the 1992-94 war in Abkhazia (see Section 1.g.). Officials agreed to joint efforts to determine their location and repatriate the remains of the dead. The International Committee of the Red Cross (ICRC) assisted this effort.

### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices; however, members of the security forces continued to torture, beat, and otherwise abuse prisoners and detainees, usually to extract money or confessions. Serious abuses and police misconduct, such as the fabrication or planting of evidence, remained problems. During the year, there were several cases of police officers brought to trial, dismissed, or demoted for abuses; however, impunity remained a problem, particularly in outlying regions (see Section 1.d.). According to human rights observers, many police continued to believe that they would not be held accountable for such actions.

Human rights advocates reported that allegations of the use of torture, such as electric shock, to extract money or confessions continued during the year. During the year, the Public Defender's office (Ombudsman) reported that mistreatment and physical abuse of detainees was a major problem. However, some observers noted that when the Ministry of State Security (as opposed to the MIA) managed an investigation, allegations of physical abuses were rare.

On February 28, police detained Gocha Bregadze and Revaz Purtskhvanidze in Kutaisi and, their attorney alleged, subjected them to electric shock. No investigation was carried out.

There were allegations that, on June 16, police arrested and subjected Irakli Tushishvili to electric shock in MIA custody. After the Ombudsman's office intervened, he was transferred to a pretrial facility. An investigation was ongoing at year's end.

The most serious incidents of abuse occurred during pretrial detention when police interrogated suspects. Human rights observers and lawyers noted that abuses occurred more frequently at the time of arrest and in police stations, rather than in pretrial detention facilities, and noted that a growing number of confessions were made in police stations. According to human rights observers, those who suffered such abuse were held routinely for lengthy periods in pretrial detention to give their injuries time to heal (see Section 1.e.). Police often claimed that injuries were sustained during or before arrest. Police agents within the prison population also allegedly committed abuses in pretrial detention facilities. Guards frequently abused children in the Isolator detention facility that held street children in Gldani.

In the first 6 months of the year, 462 prisoners with bodily injuries were transferred from temporary MIA detention facilities to the penitentiary department, 117 cases were referred for investigation, and 12 criminal cases were opened; there were no convictions in 2002 or during the year.

Local human rights observers alleged that security forces continued to abuse detainees in two pretrial detention facilities: Isolator Five in Tbilisi and the pretrial facility in Kutaisi. Detainees suspected of serious crimes or whose cases had political overtones were incarcerated in Isolator Five, located in the basement of the MIA. As a condition of membership in the Council of Europe, Isolator Five was officially closed in 2000; however, domestic human rights organizations claimed the facility remained open and served the same function, only under a different name. According to local human rights observers, many detainees in Isolator Five reported beatings and abuse despite calls for investigators to show restraint; often the threat of incarceration in this facility was reportedly sufficient to induce confession or the payment of money.

Foreign and local members of nontraditional religious groups continued to report harassment by police and other authorities.

Government officials acknowledged that MIA personnel in the past routinely beat and abused prisoners and detainees, and the Government took some steps to address these problems. Government officials cited a lack of proper training, poor supervision of investigators and guards, and a lack of equipment as contributing to the continuation of these practices in law enforcement facilities.

To counter incidents of torture and abuse by police officials, the Ombudsman instituted a rapid reaction group in January 2002 with the support of the Organization for Security and Cooperation in Europe (OSCE). This pilot project had the mandate to provide immediate response to all claims of human rights violations during the most critical phase, the first 72 hours of a person's detention. The Ombudsman reported that the Rapid Reaction Group registered 47 cases of human rights violations in the first 6 months of the year. The Rapid Reaction Group essentially ceased to function following the appointment of the Ombudsman to the Central Election Commission (CEC) in August.

The Government dismissed three police officers of the Didube–Chugureti police station in Tbilisi who severely beat and threatened to rape Vakhtang Mamuliani, a minor, in January 2002.

In January 2002, police beat and mistreated Aleksander Lichelli, causing extensive scarring and wounds including the pulling out of four fingernails. During the year, an official report found that the injuries were sustained during the arrest. The Government took no disciplinary action and closed the case.

Criminal proceedings against two police officers for extortion of 15-year-old D. Asaturov and his family remained pending at year's end. The police officers occasionally beat Asaturov and systematically extorted money from him and his family while periodically detaining him over a 2-year period. No criminal charges were opened for the mistreatment, after which a medical examination documented a concussion to the brain, bruises to the ear, and loss of consciousness.

A criminal case against police officers from the Didube–Chugureti police department in Tbilisi, who allegedly beat Giga Bitsadze to the point of hospitalization in June 2002, remained pending in the prosecutor's office at year's end.

An investigation of a police officer who shot and wounded a 12-year-old boy in July 2002 during a dispute with a vendor at an open-air market in Tbilisi remained pending at year's end.

The Ministry of Justice (MOJ) was responsible for overall administration of the prison system; however, the law permits MIA personnel to continue to staff the facilities. The MIA maintained several of its own cells in various prisons. Legislation permits

the MIA to conduct investigations among inmates without judicial approval to gather evidence for trials.

Prison conditions continued to be inhumane and life threatening, according to the U.N. and many NGOs, including Human Rights Watch (HRW). Abuse and extortion of prisoners and detainees by prison staff continued. Prison facilities remained unsanitary, overcrowded, and understaffed and were in desperate need of repair. Most prison facilities lacked proper ventilation, plumbing, lighting, waste disposal, or sanitary medical facilities. Regional penitentiaries and pretrial detention facilities were without electricity for months. Guards and prison staff were not paid in a timely manner, if at all.

Overcrowding remained a problem. Tbilisi facilities typically had 16 or more persons to a cell designed for 10 to 12 persons. During the first 8 months of the year, 85 persons were pardoned and more than 300 cases were under review by the pardoning commission.

The April 2002 U.N. Human Rights Commission review of the country's compliance with the International Covenant on Civil and Political Rights cited systemic problems with the criminal justice and prison systems and continued widespread use of torture and arbitrary detention by police. In issuing recommendations for improving the country's treatment of detainees and prisoners, the Committee requested that the Government report on progress in addressing its specific concerns within 12 months rather than waiting for its third periodic report scheduled for 2006; no report was issued by year's end.

Observers reported an increase in violence among prisoners, sometimes resulting in deaths. The increase was attributed to the insufficient and demoralized guard staff. One observer stated that the failure to pay guard staff and the loss of promotion possibilities due to the penitentiary reform created a staffing problem. Some human rights groups claimed that rape by inmates or prison guards was common.

On January 25, a riot in the Tbilisi prison resulted in injuries to 70 prisoners and 10 guards. On September 10, 129 prisoners escaped from the Rustavi prison, resulting in injuries for 7 guards. Nugzar Mestopashvili, who escaped from the Rustavi penitentiary in August 2002 and decried inhumane treatment at the prison in a live broadcast on the Rustavi-2 television station, was serving out his sentence in another prison.

Attempted suicides and self-mutilation occurred in prisons as protests against declining prison conditions or human rights violations. There were also sporadic hunger strikes by prisoners to protest poor conditions, visitor limitations, and the perceived arbitrary parole policy of the Government.

In February, prisoner Shota Kvelashvili went on a hunger strike and sewed his mouth shut to protest the investigation into his case by the State Prosecutor's Office. Although prison doctors removed the sutures the same day, the strike lasted a week.

In July, prisoners Givi Rukhaia and Zaal Chikhladze, who were arrested for mugging a taxi driver, protested the allegedly false charges through 1 day of self-mutilation. Rukhaia mutilated himself with nails and Chikhladze sewed his mouth shut. An independent investigation by the Ombudsman supported the prisoner's contention and noted that police had extorted money and gold from Rukhaia. An investigation into the case was ongoing at year's end.

Men and women were held separately, and a new facility for women opened in August. Juveniles were held separately in a specially constructed facility that opened in 2002; however, juveniles were frequently not separated from other inmates in MIA temporary detention facilities. Pretrial detainees were often kept with convicted prisoners due to overcrowding.

The prison mortality rate reportedly improved; however, human rights NGOs claimed that authorities kept the official rates artificially low by releasing prisoners who were terminally ill or by sending prisoners to the hospital when they were dying. Observers claimed deaths of prisoners without families usually went unreported. During the year, there were 37 registered deaths in prison, 3 of which were attributed to tuberculosis; the others were attributed to suicide or other diseases. According to the ICRC, tuberculosis was widespread in the prison system; in cooperation with the MOJ, the ICRC has treated nearly 2,200 infected prisoners since 1998.

The ICRC had full access to detention facilities, including those in Abkhazia, and access included private meetings with detainees and regular visits. The OSCE reported bureaucratic delays but no serious problems in obtaining access to prisoners or detainees; however, local human rights groups reported sporadic difficulty in visiting detainees, particularly in cases with political overtones. A new human rights unit in the Prosecutor General's Office had unhindered access to detention facilities and prisons; it conducted regular visits to monitor conditions.

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; however, authorities frequently disregarded these provisions.

The MIA and Prosecutor General's Office have primary responsibility for law enforcement. The MIA controls both the police and the internal troops, which have heavy weapons and are responsible for maintaining domestic order in cases of emergency. The police are divided into functional departments, such as Traffic, corresponding to their responsibility. According to the MIA, it had 29,204 officials from various departments, including 6,400 Internal troops, 1,850 police academy (1,360 students), and 665 in

the passport and visa department. There were 1,749 civilians among them, in addition to 14,592 officers and 12,863 privates. A separate police protection department, with 9,700 officers and an independent budget and source of income, provides security and protection of private businesses. In general, the police have been only marginally effective in performing their duties due to the high incidence of corruption and extremely low salaries.

Human rights observers expressed concern that corruption was related to the large number of police officers nationwide; NGOs estimated there were close to 38,000 police officers. The Government has not consistently paid the salaries of police officers. Police solicited bribes from the general population, particularly motorists, and from suspects detained on suspicion of criminal activity.

The existence of a culture of impunity remained a problem. Despite this, some police officers were arrested or administratively disciplined in high-profile cases of physical abuse or deaths in custody. The MOJ maintained a system to provide for medical examinations of prisoners transferred from police stations to pretrial detention facilities in order to document injuries that may have occurred in police custody and to establish baseline medical condition information for each prisoner that could be used in cases where abuse in prison is alleged. Injuries consistent with abuse were documented and reported to the MOJ authorities, who in turn reported this to the MIA for investigation.

In general, officers were held accountable for abuses only in extreme cases and changes to the Criminal Procedures Code weakened a detainee's ability to substantiate claims of such abuses (see Section 1.e.). In the first 8 months of the year, 182 cases against MIA employees were sent to the Prosecutor General's Office for investigation, which resulted in the opening of criminal cases against 18 persons. All of these cases were pending at year's end. Many observers claimed that prosecutors frequently were reluctant to open a criminal case against police or they closed a case for lack of evidence. During the year, the MIA fired 97 police officers, lowered the ranks of 27 officers, and ordered a variety of types of administrative and criminal punishments for 281 officers. Human rights NGOs also believed that many instances of abuses went unreported by victims due to fear of reprisals or lack of confidence in the system.

Under the amended provisions, a defendant may file a complaint of abuse only with the Prosecutor General's Office. The Prosecutor General's decision cannot be appealed to the courts. NGOs claimed that this regulation hindered their ability to substantiate police misconduct because of the close ties between the Prosecutor General's Office and the police. The Criminal Procedure Code provides for the right of a witness to be accompanied by a lawyer when being questioned by the police. Police can hold a witness for 12 hours without being charged. Police frequently charged witnesses as suspects at the end of this period. Human rights observers continued to allege that police often called a detainee's lawyer as a witness, thereby denying him access to his client.

Ethical Standards for the police entered into force during 2002. Human rights groups welcomed the initiative but noted that a culture of corruption could undermine the ability of officers to observe the stipulations of the draft document. Police training on ethics, the rights of prisoners, standards of behavior for police, and information on how to report abuses of human rights were credited with improving police awareness of human rights. Following the change in Government in November, the new Acting Minister of Internal Affairs announced a comprehensive reform program to eradicate corruption and improve professionalism.

Parliament's Committee on Human Rights and Ethnic Relations and local human rights groups independently investigated claims of abuse. There was a significant increase in the number of claims filed; however, many claimants failed to follow through after filing, allegedly due to fear. The Committee noted that since the presidential election in 2000, claims shifted from requests for economic assistance to complaints about mistreatment and violations by the police and the prosecutor's office and the failure of the prosecutor's office to pursue criminal investigations of alleged violators.

Judges issue warrants and detention orders and, by law, suspects must be charged within 3 days. Judges may extend pretrial detention by 3-month intervals up to 9 months. NGOs stated that the amendments to the old Soviet Code (maximum 18 months detention) made the pretrial detention period less arbitrary; however, international and domestic observers noted that such detention usually was longer--sometimes up to 2 years--because this protection routinely was interpreted to include only the prosecutor's investigative period, not the defense's investigative period. Police frequently detained persons without warrants. There was no bail system available to detainees. At year's end, 6,046 persons were in custody, of which 3,662 were convicted and 2,384 were in pretrial detention.

On November 2, authorities in the autonomous region of Ajara arrested Giorgi Mshvenieradze, an election observer for the Georgian Young Lawyers' Association who reported fraud at a polling station. He was sentenced to 3 months' imprisonment on what appeared to some NGOs to be politically motivated charges; he was released on December 7.

Detainees had difficulty obtaining objective medical examinations in a timely manner. If a medical examination was not conducted within 3 to 4 days of an incident, it was difficult to establish the cause of injuries. Only a state-employed forensic medical examiner, which in most cases was an employee of the Ministry of Health's Judicial Medical Expert Center, could testify about injuries. Human rights advocates routinely criticized the state forensic examiners as biased in favor of the Prosecutor General and stated that permission for an independent forensic medical examination was rarely granted.

Police often failed to inform detainees of their rights and denied them access to family members and lawyers. Some observers charged that police also conducted interrogations in apartments outside police stations to avoid registering detainees. While officially suspects were charged within 3 days of registration, observers claimed that police frequently delayed registering

detainees for long periods in order to seek bribes. According to international and domestic observers, at times, the police attempted to extort money from suspects in exchange for not registering an arrest. Police reportedly approached suspects' families and offered to drop charges in exchange for a bribe. Correct legal procedures were observed more often once a detainee was charged and registered formally.

In an effort to address torture, amendments to the Criminal Procedure Code granting witnesses the right to legal counsel were implemented in 2002; however, this right was only occasionally observed in practice. It was common police practice to label detained suspects as "witnesses" in order to deny them access to a lawyer.

The Constitution provides for a 9-month maximum period of pretrial detention, mandates court approval of detention after 72 hours, and imposes restrictions on the role of the prosecutor (see Section 1.e.). These provisions generally were observed; however, prosecutors continued to exert undue influence over criminal procedures.

The Criminal Procedure Code calls for detainees to be charged within 72 hours. However, MOJ figures for the first 6 months of the year showed that for the Tbilisi pretrial detention center, 38 detainees were registered in violation of the 72-hour deadline. The most serious incidents of police abuse occurred in the investigative phase of pretrial detention when police interrogated suspects (see Section 1.c.). Authorities often held for lengthy periods prisoners who were tortured and abused in police stations and pretrial detention in order to give their injuries time to heal (see Sections 1.c. and 1.e.).

The law prohibits forced exile, and the Government did not employ it.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, in practice, the judiciary often did not exercise full independence, and judicial impartiality was limited. There were reports that judicial authorities continued to experience pressure from the executive branch and powerful outside interests. Several observers have questioned the sustainability of a reformed judiciary without reform of law enforcement institutions. Human rights organizations, including HRW, alleged that investigators sometimes planted or fabricated evidence and extorted confessions in direct violation of the Constitution. Judges were reluctant to exclude evidence obtained illegally if the Prosecutor General objected. Courts continued to convict on the strength of confessions that may have been extracted under torture. The state continued to prevent defendants from obtaining and presenting forensic evidence of torture to the courts through procedural restrictions and by not licensing nongovernmental forensic doctors.

Judicial incompetence and corruption, including the payment of bribes to judges, remained problems. Observers commented that judges were hindered by lack of practical experience, particularly in case law. Due to the Government's fiscal crisis, at times judges' salaries went unpaid for up to 6 months, creating an incentive for corruption. Pressure from family and political and economic interest groups was extensive, and bribery was common.

The Council of Justice administered the court system. The Council has 12 members, 4 selected from within each branch of government. To reduce incompetence and corruption, the law has established a three-part testing procedure for working and prospective judges administered by the Council. All judges, except for three recognized legal scholars, are required to take the exams, which are given twice annually. At the district level--particularly in extremely rural or mountainous regions--it was difficult to find candidates who had passed the exam and who were willing to fill judge positions. Supreme Court judges are required to take the examination.

The law establishes a three-tier court system. At the lowest level are district courts, which hear routine criminal and civil cases. At the next level are regional (city) courts of appeal, which serve as appellate courts for district courts. The regional courts also try major criminal and civil cases, review cases, and either confirm verdicts or return cases to the lower courts for retrial. The Supreme Court acts as a higher appellate court but is the court of first instance for capital crimes and appeals from the CEC. The courts follow a judicial code of ethics; however, some observers alleged that the Supreme Court's decisions were subject to political and other undue influences. Regional managing judges continued to monitor the performance of lower courts throughout the country.

A separate Constitutional Court arbitrates constitutional disputes between branches of government and rules on individual claims of human rights violations. The Court has interpreted this latter function narrowly, agreeing to rule only in cases in which the complainant alleged that the violation was sanctioned by law. The Court only considered one case at a time. The Court's rulings demonstrated judicial independence.

During the year, seminars continued on the practical use of the European Human Rights Convention in the judicial system for regional and district judicial staff, covering the protection of rights and limitations of human rights, the role of courts in the implementation of the Human Rights Convention, Article 8 of the Convention, and related court procedures.

Aside from the judicial system, law enforcement as a whole has not undergone significant reform. During the year, reforms continued that included additional training and testing for prosecutor's office personnel and periodic internal reviews. Payment of

bribes to police and prosecutor's office officials reportedly was common (see Section 1.c.). The Constitution identifies the Prosecutor General's Office as part of the judicial system, and there were calls from legislators and others to move the Prosecutor General's Office into the executive branch. Court orders were rarely enforced.

According to the Constitution, a detainee is presumed innocent and has the right to a public trial. A detainee has the right to demand immediate access to a lawyer and the right to refuse to make a statement in the absence of counsel. Officers must inform detainees of their rights and notify their families of their location as soon as possible. However, these rights were not observed fully in practice. Authorities frequently did not permit detainees to notify their families of their location, and local police authorities limited lawyers' access to detainees. Defense attorneys and family members often had difficulty obtaining permission to visit detainees. Investigators seldom informed individuals of their rights. Lengthy trial delays were common. Defense counsel is not required to be present at pretrial hearings, and defendants and their attorneys regularly complained that they were not notified of scheduled hearings. The Criminal Procedures Code does not require the police to allow a lawyer to enter a police station unless hired by a detainee.

The Criminal Procedure Code significantly weakens many constitutional protections designed to circumscribe the powers of the Prosecutor General, increase the rights of defense attorneys, and enhance the independence of the judiciary. Prosecutors continued to direct investigations, supervise some judicial functions, and represent the state in trials. They also continued to exert disproportionate influence over judicial decisions. The Criminal Procedure Code prohibits the same judge who signed a warrant from hearing the case; however, this rule frequently was disregarded outside of Tbilisi since few regions had more than one judge.

In instances where defendants were unable to afford legal counsel, attorneys were assigned to a case upon the recommendation of the prosecutor's office by the Office of Legal Assistance, a part of the state-controlled Bar Association. In certain cases, defendants were pressured or coerced by prosecutors to accept a state-appointed attorney or other attorneys who did not vigorously defend their interests. However, in general individuals who could afford to pay were able to obtain the attorney of their choice in both criminal and civil cases. The prosecutor's office not only had control over state-appointed lawyers; it also determined whether to grant a defendant's request to change lawyers. Several NGOs provided free legal services for those whose human rights were violated in Tbilisi. The quality of attorneys varied significantly. In addition, the licensing of forensic medical examiners did not ensure competence.

There was disagreement among NGOs over who should be counted as a political prisoner; most international and local human rights organizations estimated that there were 20 to 25 political prisoners in the country. The Parliamentary Human Rights Committee considered there to be only 3 to 5 political prisoners, while the Ombudsman claimed that there were no official political prisoners in the country; however, many individuals, including members of the former paramilitary Mkhedroni, so-called Zviadists (followers of the deceased former president Gamsakhurdia), and some former state security personnel, considered themselves political prisoners. According to human rights observers, some Zviadist prisoners never took up arms and should be considered political prisoners, although members of the Mkhedroni participated in paramilitary actions. Some Zviadists were convicted on poorly substantiated charges of treason, banditry, and illegal possession of weapons and were serving sentences of from 7 to 12 years. In December, the Interim President appointed Former Gamsakhurdia Minister of Finance Guram Absandze as Deputy State Minister charged with reviewing all cases against Zviadists, with the aim of releasing them.

In November, the European Court of Human Rights in Strasbourg began reviewing the case of Tengiz Asanidze, who was pardoned by President Shevardnadze.

The Government permitted international human rights and domestic organizations to visit political prisoners, and some organizations did so during the year.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions without court approval or legal necessity; however, in practice, law enforcement agencies and other government bodies occasionally monitored private telephone conversations without obtaining court orders. The Government stated that security police and tax authorities entered homes and workplaces without prior legal sanction in emergency cases as permitted by the Criminal Procedures Code. Traffic Police often stopped and searched vehicles without probable cause to extort bribes (see Section 1.d.).

#### g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts

Internal conflicts in Abkhazia and South Ossetia remained unresolved. Ceasefires were in effect, and Commonwealth of Independent States (CIS) and joint peacekeeping forces, respectively, were present in both areas, although sporadic incidents of violence occurred in Abkhazia. These conflicts and the problems associated with approximately 270,000 IDPs from Abkhazia, 60,000 from South Ossetia, and 3,900 refugees from Chechnya posed a continued threat to national stability. In 1993, Abkhaz separatists won control of Abkhazia, and most ethnic Georgians were expelled from or fled the region. A Russian peacekeeping force has also been in South Ossetia since 1992 as part of a joint peacekeeping force with Ossetians and Georgians. The Government had no effective control over Abkhazia or South Ossetia during the year.

There was limited information on the human rights situation in Abkhazia and South Ossetia due to limited access to these regions. The U.N. Human Rights Committee (UNHRC) Office in Abkhazia reported continuing modest improvements in the

human rights situation. However, systemic problems in the criminal justice system, in particular the failure to conduct impartial investigations and to bring alleged perpetrators to trial, sustained a climate of impunity. Limited access to qualified legal counsel aggravated the situation. The Parliament Human Rights Office remained concerned at the length of pretrial detentions and violations of due process in individual cases. Since 2002, an independent legal aid office in the Gali district of Abkhazia provided free legal advice to the population.

The Ministry of Education of the separatist government of Abkhazia prohibited instruction in Georgian in schools in Abkhaz-controlled territory, including in the district of Gali inhabited by returned IDPs. The Public Defender's Office (Ombudsman) expressed indignation with the decision based on international legislative norms and the U.N. conventions on discrimination in the field of education.

A Human Rights Commission established by the non-recognized government of South Ossetia continued to operate. The South Ossetian Human Rights Commission worked in close collaboration with the Commission for Human Rights in the Autonomous Republic of North Ossetia in the Russian Federation and the representative of the President of the Russian Federation for Human Rights.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The Constitution and the law provide for freedom of speech and of the press; however, although the independent press was generally free, there were several instances of intimidation of journalists. According to journalists and NGOs, security and other authorities on occasion attempted to intimidate the press through public comments, private admonitions, court cases, and violence. Nevertheless, during the year, journalists were able to publish wide-ranging and extremely critical views of officials and their conduct. Some journalists practiced self-censorship.

There were approximately 200 independent newspapers in circulation. The press frequently criticized senior government officials; however, few newspapers were editorially independent and commercially viable. Typically newspapers were subsidized by and subject to the influence of their patrons in politics and business. The Government financed and controlled one newspaper that was published in Russian-, Azeri-, and Armenian-language versions; the newspaper reflected official viewpoints. The highest-circulation independent daily newspaper, Alia, had a national circulation nearly 20 percent higher than the government-controlled daily; however, independent newspapers continued to struggle in the regions, due largely to the population's poverty. High printing costs, a lack of advertising, and general poverty limited the circulation of many newspapers. Several newspapers were reputable sources of information, although lack of financial resources hindered overall journalistic development and standards. State tax authorities continued to harass independent newspapers. Journalists stated that they were vulnerable to pressure from authorities, as well as from business and societal elements.

Most persons received their news from television and radio. The Government financed and controlled the main radio and television network with a national audience; network broadcasts reflected official viewpoints. Rustavi-2, a member of the independent television network TNG, was considered the only station other than the state-run channel with a national audience, although Imedi and Mze were gaining popularity and market share.

In addition to Rustavi-2, there were seven independent television stations in Tbilisi. An international NGO estimated that there were more than 45 regional television stations, 17 of which offered daily news. While these stations ostensibly were independent, a lack of advertising revenue often forced them to depend on local government officials for support. Some regions, such as Samtskhe-Javakheti and Kutaisi, had relatively independent media. Rustavi-2 had a network of 15 stations, 5 of which broadcast Rustavi-2's evening news program daily. State tax authorities continued to harass independent television stations, including after the interim authorities assumed power on November 23.

Channel 25 was the only independent television station broadcasting in the autonomous region of Ajara. A lawsuit brought by the four owners of Channel 25 against Mikhail Gagoshidze, chairman of Ajaran Television and Radio, remained in the appeal process at year's end.

State media showed a bias toward pro-government candidates during the election campaign, but did provide the required free airtime for all candidates. On November 19, the Director of the State Television and Radio resigned following criticism by President Shevardnadze that the station was not sufficiently pro-government in its reporting. All stations broadcast the Parallel Vote Tabulation (PVT) and exit poll results, and there were no reports that stations were harassed for doing so (see Section 3).

Some local media outlets and journalists outside Tbilisi were attacked or harassed during the campaign for the November parliamentary election. On September 4, an Ajara TV journalist was beaten at the Chancellery, and in October, two Rustavi journalists were beaten in Batumi during a National Movement rally.

Following the change in government in November, the new authorities threatened several smaller newspapers and television stations due to their political reporting. For example, authorities closed Caucasus TV for minor tax arrears and began investigating the Georgian Times media group because they considered the group to be politically motivated. In December, both



State Television and Rustavi-2 were attacked with explosive devices. Unknown persons fired gunshots at the apartment of an Iberia Television journalist, critical of the new government, in an apparently politically motivated attack.

In September 2002, more than 20 police officers allegedly entered the local Zugdidi television station, which provided footage for an expose on police involvement in smuggling gasoline to the neighboring separatist region of Abkhazia, and beat employees and destroyed equipment. Following an internal police investigation, the deputy police chief was dismissed, and the station continued to broadcast at year's end.

In July, former policeman Grogol Khurtsilava was found guilty of the 2001 killing of independent television journalist Giorgi Sanaia and sentenced to 13 years in prison. According to the Committee to Protect Journalists, Sanaia's wife alleged that he was killed in connection with his investigation into ties between senior government officials and Chechen separatists in the Pankisi Gorge; his colleagues shared her concerns.

The investigation into the 2000 death of Italian reporter Antonio Russo remained suspended due to lack of a suspect.

In August, authorities in the autonomous region of Ajara closed the only independent newspaper, Batumelebi, on trademark infringement charges. It remained closed at year's end.

Libel laws inhibited investigative journalism. The Civil Code and other legislation make it a crime to insult the honor and dignity of an individual and place the burden of proof on the accused.

In July, Head of the Georgian Railway Akaki Chkhaidze won a libel suit against independent television station Rustavi-2 for information on a program linking him to bribery scandals. The station was ordered to pay \$480,000 (1 million GEL) in moral damages. The station's appeal was pending at year's end.

Stations desiring benefits and better working relations with authorities practiced self-censorship.

The lack of an active journalists' association limited the effectiveness of media advocacy. Media observers noted that few journalists and government officials, particularly in the regions, understood the legal protections afforded journalists; and few journalists had the resources to hire a lawyer. Some enlisted the assistance of the NGO community.

The Administrative Code contains a freedom of information section that provides for public access to government meetings and documents; however, few journalists employed it. The adoption of a freedom of information act and judicial enforcement of this law made agencies more willing to provide information; however, the Government often failed to register freedom of information act requests, as required by the administrative code. Although the law states that a public agency shall release public information immediately, or no later than 10 days, the release of requested information could be delayed indefinitely. A requesting party has no grounds for appeal.

The Government did not limit access to the Internet; however, poor infrastructure and poverty limited access outside of the major cities.

The Government did not restrict academic freedom.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly without permission from the authorities; however, both the national Government and local authorities restricted this right in practice. Nonetheless, authorities did not interfere or attempt to disperse forcibly several large unauthorized peaceful demonstrations following the November parliamentary election, which led to the President's resignation.

The law requires political parties and other organizations to give prior notice and obtain permission from local authorities to assemble on a public thoroughfare. Members of the NGO community argued that the law violates the Constitution and sought to have it overturned by the Constitutional Court; however, the Court refused to hear the case, on the grounds that a test case must be brought before it to consider the challenge and an individual must prove there was personal injury from the law. Most permits for assemblies were granted without arbitrary restriction or discrimination; however, this was not uniformly the case for Zviadists (supporters of former President Gamsakhurdia). Extreme Zviadists never accepted any successor to the Gamsakhurdia government as legitimate following the civil war and Gamsakhurdia's removal from power. Zviadists regularly held demonstrations in front of parliament demanding that the present Government resign. The Government viewed public rallies of the Zviadists as a threat because of the publicity that they generated for themselves and against the Government.

On June 12, police broke up a student protest against the Government at the MIA and arrested several students on charges of hooliganism. On August 6, police broke up a peaceful student rally opposing an energy deal with Russia; two students were injured.

Following the seriously flawed November 2 parliamentary elections, almost daily peaceful demonstrations were held both

protesting against the election fraud and in support of the Government. Despite the tension surrounding these demonstrations, there were no incidents of harassment or violence and the police made no effort to disperse forcibly or otherwise interfere with the demonstrations.

On June 12, "Kmara" activists were detained for painting "Kmara" on the walls of the MIA. Police detained several activists for 8 hours; one of them alleged police verbally threatened him.

Orthodox extremists, with the tacit approval or active cooperation of law enforcement authorities, repeatedly broke up private meetings and public gatherings of religious minority groups, often with extreme violence (see Section 2.c.). The Government did not take effective action against the perpetrators of such attacks.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Authorities granted permits for registration of associations without arbitrary restriction or discrimination; however, two organizations affiliated with Jehovah's Witnesses were unable to register on the grounds that there was no law regulating the registration of religious organizations (see Section 2.c.).

Political parties may register with the CEC by providing documents on the party's organization and structure and evidence of membership. There were no government restrictions on the formation of political parties beyond the registration requirements.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, local authorities sometimes restricted the rights of members of nontraditional religious minority groups. Local police and security officials failed to protect nontraditional religious minority groups and were complicit in several attacks against members of such groups. Police often failed to respond to continued attacks by Orthodox extremists, largely followers of Mkalavishvili (Basilists), against members of Jehovah's Witnesses and other nontraditional religious minorities.

The Constitution recognizes the special role of the Georgian Orthodox Church in the country's history but stipulates the independence of the Church from the State. The tax code grants tax exemptions only for the Orthodox Church. A constitutional agreement (Concordat) signed by the President and the Georgian Orthodox Patriarch defines church-state relations, which provoked widespread concern among minority religious groups. The Concordat states that, with the consent of the Church, the Government can issue permits or licenses for the use of official symbols and terminology of the Church, as well as for the production, import, and distribution of worship articles.

Some nationalist politicians continued to use the issue of the supremacy of the Georgian Orthodox Church in their platforms and criticized some Protestant groups, particularly evangelical groups, as subversive. Jehovah's Witnesses in particular were the targets of attacks from such politicians.

There are no laws regarding the registration of religious organizations; however, in November 2002, the Government proposed to Parliament a draft bill that would provide for registration of all religious groups in the country. Under the proposed law, religious groups that perform humanitarian services may be registered as charitable organizations, although organizations that were not registered could not conduct religious services, rent office space or import literature, among other activities.

Many local law enforcement officials continued to interpret a 2001 Supreme Court ruling that revoked the Jehovah's Witnesses legal registration as a ban and used it as a justification not to protect members of Jehovah's Witnesses from attacks by religious extremists.

While most citizens practiced their religion without restriction, threats, intimidation, and the use of force by ultra-conservative extremists, whom the Government failed to control, restricted the worship of some, particularly members of nontraditional faiths. At times, local police and security officials harassed several non-Orthodox religious groups, particularly local and foreign missionaries, including members of Jehovah's Witnesses, Baptists, Evangelicals, Pentecostals, and Hare Krishnas.

On occasion, local police and security officials continued to harass or deny protection to nontraditional religious minority groups, particularly members of Jehovah's Witnesses. The police only sporadically intervened to protect such minorities from attacks by Orthodox extremists. Police participation or facilitation of attacks diminished during the year; however, the MIA (including the police) and Prosecutor General's Office generally failed to pursue criminal cases against Orthodox extremists for their attacks against religious minorities. On the few occasions in which there were investigations into such attacks, they proceeded very slowly.

During the year, the Catholic Church faced difficulties in attempting to build churches in the towns of Kutaisi and Akhaltsikhe.

In March and April, Customs officials impounded religious literature of the Watch Tower Bible and Tract Society on the grounds that the organization was unregistered and could not import literature. The literature was released several months later to an individual rather than the organization.

The Roman Catholic Church and the Armenian Apostolic Church were unable to secure the return of churches closed during the

Soviet period, many of which Soviet authorities gave to the Georgian Orthodox Church. A prominent Armenian church in Tbilisi remained closed, and the Armenian Apostolic Church, the Catholic Church, and Protestant denominations had difficulty obtaining permission to construct new churches as a result of pressure from the Georgian Orthodox Church.

The Jewish community also experienced delays in the return of property confiscated during Soviet rule. By year's end, a theater group still had not vacated the central hall of a former synagogue that the Government rented to it, despite a 2001 Supreme Court ruling instructing it to do so.

Regular and reliable information about separatist-controlled Abkhazia was difficult to obtain. An Abkhaz presidential decree bans Jehovah's Witnesses. A number of members of Jehovah's Witnesses have been detained in the last few years; however, according to a representative of Jehovah's Witnesses, none were in detention at year's end.

Since 2000, the Government continued to prosecute a criminal case against Father Basili Mkalavishvili, whose followers engaged in a number of violent attacks on nontraditional religious minorities; however, the investigation has proceeded very slowly. While the criminal case prevented Mkalavishvili from making personal appearances at most attacks during the year, his followers continued their violence in his absence.

In April, during the trial of Mkalavishvili, his followers physically assaulted an OSCE observer and threatened other international observers in the courtroom with the acquiescence of MIA security forces. The Basilists also threatened plaintiffs and brought weapons into the courtroom. On June 6, a Tbilisi District Court ordered Mkalavishvili taken into custody. Police claimed they were unable to locate him to serve the warrant. He has reportedly fled the country.

Despite a general tolerance toward minority religious groups traditional to the country—including Catholics, Armenian Apostolic Christians, Jews, and Muslims—citizens remained very apprehensive about Protestants and other nontraditional religions, which were seen as taking advantage of the populace's economic hardships by gaining membership through the distribution of economic assistance to converts. Some members of the Georgian Orthodox Church and the public viewed non-Orthodox religious groups, particularly nontraditional groups or sects, as a threat to the national Church and the country's cultural values and argued that foreign Christian missionaries should confine their activities to non-Christian areas. Foreign and local members of nontraditional religious groups continued to report harassment by extremist Orthodox groups, police, and other authorities.

Basilists engaged in a number of violent attacks on nontraditional religious minorities, including Baptists, Seventh-day Adventists, and particularly members of Jehovah's Witnesses. During the attacks, Basilists burned religious literature, broke up religious gatherings, and beat parishioners, in some cases with nail-studded sticks and clubs. Although law enforcement authorities were present at some attacks, they failed in most instances to intervene, leading to a widespread belief in police complicity in the activities of the Basilists. Representative cases included the following incidents:

An investigation into a 2001 incident in Marneuli, where police and followers of Mkalavishvili attacked and harassed members of Jehovah's Witnesses, continued at year's end.

On January 24, a group of Basilists led by Mkalavishvili blocked the Baptist Cathedral in Tbilisi to prevent an ecumenical prayer service. The mob damaged the building, seized and destroyed literature, and assaulted several participants. The police intervened after being alerted by a foreign embassy, but did nothing to protect the property or allow the congregation to enter.

On May 4, a mob led by ultra-nationalist M.P. Guram Sharadze blocked the road to Gori and prevented a planned meeting of Jehovah's Witnesses there. Police had previously urged the Jehovah's Witnesses to cancel the meeting and did not intervene to provide freedom of movement.

On June 8, an ultra-Orthodox mob blocked the streets in front of a Pentecostal minister's house where services were being conducted and refused to let parishioners through. Church members were threatened with violence. Police were present but did not allow the parishioners to enter the street.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

#### d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice. Neither registration of an individual's residence nor internal passports were required. Soviet passports bearing a propiska (proof of legal residence in a particular locality) were accepted as proof of identity because passports and identity cards were expensive to purchase and difficult to obtain, particularly in poor and remote areas.

The Soviet Union relocated approximately 275,000 so-called Akhiskha or Meskhetian Turks from southern Georgia to Central Asia in the 1940s. Many of the Meskhetians were expelled a second time from Central Asia when the Soviet Union collapsed, and a number remained stateless in Russia. A 1999 presidential decree established the State Commission on Repatriation and Rehabilitation of the Population Deported from Southern Georgia, and the

Government undertook to begin the repatriation process within 3 years. However, there has been no legislation to allow for repatriation of Meskhetian Turks to Georgia, and there was some official and public opposition to their repatriation. There were 643 Meskhetians living in the country, most of whom had citizenship.

The 1994 agreement between Russia, Georgia, Abkhazia, and the UNHCR on repatriation in Abkhazia called for the free, safe, and dignified return of IDPs and refugees. The Abkhaz separatist regime prevented such repatriation and unilaterally abrogated the agreement. In 1999, the Abkhaz separatist regime unilaterally invited IDPs to return to Gali starting in 1999 but did not adequately ensure their safety. The move did not affect significantly the return to Gali of IDPs, who continued to travel back and forth to the area to tend their property. As many as 40,000 persons were estimated to be living in Gali on a more or less permanent basis, depending on the security situation.

The 1992 ethnic conflict in South Ossetia also created tens of thousands of IDPs and refugees. In 1997, the UNHCR began a program to return IDPs and refugees; however, both sides created obstacles that slowed the return. During the year, the South Ossetian separatists continued to obstruct the repatriation of ethnic Georgians to South Ossetia, although some families returned. Meanwhile, South Ossetia continued to press for the return of all Ossetian refugees to South Ossetia rather than to their original homes in other regions of the country. The Government publicly has recognized the right of Ossetian refugees to return to their homes in the country but was unable to take facilitative action, since it had little authority in South Ossetia. Government opposition to the return of illegally occupied homes has prevented the return of Ossetian refugees to Georgia proper.

The Government inconsistently paid stipends to IDPs of approximately \$7 (14 GEL) per person per month. It paid them more frequently in Tbilisi than elsewhere in the country. The Government subsidized some electricity every month for each IDP. IDPs also were not afforded the right to vote in local elections (see Section 3).

The law did not provide for the granting of refugee status or asylum to those persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided some protection against refoulement, and there were no reports of the forced return of persons to a country where they feared persecution during the year. According to the UNHCR, the Government processed no asylum cases and did not provide temporary protection to persons fleeing another country during the year. The Ministry for Refugees and Accommodation (MRA) was responsible for the screening and registration of refugees and new arrivals. Since the outbreak of hostilities in Chechnya, the Government has admitted what was estimated to be 4,000 to 5,000 refugees from the conflict. Chechen refugees settled in the Pankisi Valley in the eastern part of the country. Both local and international NGOs provided sporadic assistance to refugees living in the Pankisi Valley; however, after the kidnapping in 2000 of three ICRC staff members, international humanitarian organizations had only periodic access to the Pankisi Valley.

In April 2002, the MRA reregistered Chechen refugees with the assistance of the UNHCR. At year's end, approximately 3,800 Chechen refugees were living in the Pankisi Valley and 76 in Tbilisi. This significant reduction in the number of refugees was due to the separation of local Kist (ethnic Chechen citizens) from Chechen refugees in official statistics, as well as departures of refugees for Azerbaijan and other countries. The majority of the Chechen refugees lived with the local Kist population; only 15 percent were sheltered in communal centers.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution and the 1995 parliamentary and presidential election laws provide citizens with the right to change their government peacefully, and citizens exercised this right through periodic elections. However, numerous serious irregularities marred the November parliamentary election, June 2002 local and municipal elections, and the 2000 presidential election, and the Government limited this right in practice. International observers criticized all of these elections, citing poor organization by authorities, inaccurate voter registers, and lack of transparency in vote counting and tabulation. However, in July, President Shevardnadze and opposition leaders agreed to a series of measures aimed at ensuring that the November 2 Parliamentary election was as free and fair as possible. While these measures were only partially implemented, they established a parallel vote tally and election monitoring that allowed opposition activists to uncover massive election fraud. This fraud led to mass peaceful protests, which in turn resulted in President Shevardnadze's resignation on November 23, and the assumption of the post of Interim President by Parliament Speaker Nino Burjanadze. The Supreme Court subsequently annulled the results of the November 2 proportional parliamentary contests. In accordance with the Constitution, a presidential election was scheduled for January 4, 2004. A date for repeat proportional parliamentary elections was not set by year's end.

Serious irregularities marred the Parliamentary election held on November 2. The OSCE's Office for Democratic Institutions and Human Rights (ODIHR) reported "widespread and systemic election fraud" in its final election report. Pro-government parties dominated the election commissions at all levels. ODIHR cited delays and last-minute "haphazard" decisions by the CEC. New voter registers released in early October revealed serious flaws, such as duplicate entries and the exclusion of entire city blocks. As a result, handwritten voter registers were in use on election day, resulting in both the possible disenfranchisement of significant numbers of voters and increased opportunities for fraud. Unfair campaign conditions, two acts of serious violence, and intimidation of voters marred the pre-election period (see Section 2.a.).

Numerous irregularities marred the voting process, which was disorganized and witnessed multiple voting, unduly influence on voters, ballot stuffing, and the destruction of ballot boxes. ODIHR also reported large numbers of voters being turned away, the deployment of security forces in four districts, and several unauthorized persons in polling stations creating the appearance of

interference in the voting process. There was widespread fraud and manipulation by commission members and local authorities in the vote tabulation process, particularly at the district and polling station levels. The final results that the CEC released did not reflect those reported by the PVT or exit polls. The discrepancy between the official results and the PVT sometimes exceeded 10 percent: the CEC reported that the Union of Democratic Revival won almost 19 percent of votes, while the PVT showed it had won 8 percent. The CEC reported 100 percent turn-out in 195 polling stations. One domestic observer was beaten and arrested (see Section 1.d.). ODIHR also noted some improvements, including the new Unified Electoral Code, greater transparency in the voting process, and the role of domestic observers.

Irregularities that prevented some eligible voters from participating marred local and municipal elections held in June 2002, which had been postponed since 2001 due to financial and technical reasons. Lengthy recounts prevented the Tbilisi city council from convening until November 2002. The elections were marked by poor preparation to meet basic conditions and irregularities: Violations were noted in almost every voting district; some regional elections were cancelled due to theft or absence of ballots; armed police officers were observed at polling stations; and there were reports of multiple voting by persons in different districts. In Tbilisi, the state of voter registration lists was so poor that there were instances where several hundred citizens, often residents of the same block of apartment buildings, could not vote. While observers did not report massive or organized fraud, they criticized the elections due to overall poor organization. Shortly after the elections, Parliament formed a commission to investigate reports of irregularities. The commission published findings and recommended reforms in the CEC and in the administrative process. Many of these changes were implemented in August when new legislation governing the CEC and election administration was passed.

Elections were held periodically by the separatist governments of Abkhazia and South Ossetia, which were outside government control. International observers determined that these elections were illegitimate. International organizations, including the U.N. and the OSCE, declared presidential elections held in Abkhazia in 1999 to be illegal. Government authorities also called the election illegitimate, as they had the Abkhaz local elections of 1998, on the basis that a majority of the population had been expelled from the region. In 2001, Parliament stated that any further polls held before a settlement to the conflict was reached and displaced persons were returned to their homes would be considered illegal. In 2001, the unrecognized separatist government held presidential elections in South Ossetia, resulting in the defeat of the incumbent and a peaceful transfer of power.

There were no government restrictions on the formation of political parties beyond the registration requirements; there were 178 registered political organizations (see Section 2.b.). Organizations must register to take part in elections by a set date prior to Election Day.

On February 3, approximately 30 armed men invaded the headquarters of the New Rightist Party, damaging the office and threatening the party's co-chair, David Gamkrelidze, at gunpoint. Gamkrelidze alleged that the Government orchestrated the attack, which was carried out in a well-planned and military-like fashion. Following the disruption of the Parliament session on November 22, supporters of the National Movement destroyed the Parliamentary offices of the Revival and New Rights parties. Unknown persons also placed explosive devices in the offices of the Labor Party and Revival in the immediate aftermath of the change in government.

Following President Shevardnadze's resignation, the interim authorities began wholesale replacement of regional and local officials with supporters of the National Movement and Burjadandze-Democrats. This policy resulted in several public demonstrations in support of the previous officials, which in some cases resulted in their reappointment.

There were 16 women in the 235-seat Parliament. A woman who was the Speaker of Parliament became the Interim President in November, and several women held important committee chairmanships. Two women held ministerial posts. Although women were active in the November demonstrations, there were no female candidates in 42 of the 75 election districts and only 20 percent of the District Election Commission (DEC) chairs were women.

There were 16 members of minority groups (7 Azeris, 6 Armenians, 2 Abkhaz, and 1 Greek) in the 235-seat Parliament. There were credible reports of intimidation of Azeris in the November election by local authorities and police in Kvemo Kartli, where many violations were reported on election day. Although a project funded by the OSCE High Commissioner on National Minorities produced election materials in Azeri, Armenian, and Russian languages, the poor proficiency in Georgian of many members of national minorities created a barrier in their full participation in the work of election commissions and limited their access to campaign materials.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigations of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases.

There were a number of credible local organizations that monitored human rights, most of them in Tbilisi. Other local human rights groups were extensions of partisan political groups and these had little influence. NGOs were permitted to bring suits to courts of the first instance on behalf of persons whose rights were abused.

A member of an NGO was arrested while observing the November election (see Section 1.d.).

The 2002 attack on the Liberty Institute, the country's leading human rights organization, remained under investigation at year's end.

The law provides for the Ministry of Finance to access the funding records of international NGOs, alarming some in the NGO community.

The UNHRC and the OSCE Mission's joint human rights office in Sukhumi, Abkhazia has operated sporadically because of security conditions but has provided periodic findings, reports, and recommendations. During the year, the office registered relatively few complaints of abuse by de facto police and judicial authorities operating in the region.

NGOs continued to view the Parliamentary Committee on Human Rights as the most objective of the Government's human rights bodies. The Constitutionally mandated office of the Public Defender, or Ombudsman, monitored human rights conditions and investigated allegations of abuses. The National Security Council's human rights advisor, who has a mandate to investigate claims of abuse, and the Public Defender were active in several individual cases involving police misconduct (see Section 1.d.). The Prosecutor General's Office established a new human rights unit focused on curbing pretrial detention abuses and attacks against religious minorities. While government representatives were effective in individual cases, neither they nor NGOs successfully effected systemic reform.

#### Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution recognizes the equality of all citizens without regard to race, language, sex, skin color, political views, national, ethnic, or social affiliation, origin, social status, land ownership, or place of residence; however, in practice, discrimination against women was a problem. The Constitution stipulates that Georgian is the state language. Ethnic Armenians, Azeris, Greeks, Abkhaz, Ossetians, and Russians usually communicated in their native languages or in Russian. Both Georgian and Russian were used for interethnic communication.

#### Women

Societal violence against women was a problem. There are no laws that specifically criminalize spousal abuse or violence against women, although the Criminal Code classifies marital rape and sexual coercion as crimes. During the year, 795 crimes were registered against women, compared with 867 in 2002. Crimes included 18 murders, 24 attempted murders, 52 rapes, and 41 attempted rapes; the remainder consisted of battery, assault and lesser crimes. Spousal abuse was reportedly one of the leading causes of divorce but was rarely reported or punished because of social taboos against raising the problem outside of the family. Domestic violence continued to rise as economic conditions became more difficult. Police did not always investigate reports of rape. A local NGO operated a shelter for abused women, and the Government operated a hotline for abused women but did not provide other services. There were anonymous telephone services that assisted rape victims, but no shelters, specialized services, or other mechanisms to protect or assist them.

The kidnapping of women for marriage continued to occur, particularly in rural areas, although the practice continued to decline. Such kidnappings often were arranged elopements; however, at times these abductions occurred against the will of the intended bride and sometimes involved rape. Police rarely took actions in such cases even though such kidnappings are a crime according to the Criminal Code.

Prostitution is not a criminal offense, and trafficking in women for the purpose of prostitution was a problem (see Section 6.f.). In the past, police officers reportedly beat and raped prostitutes; there were no such confirmed reports this year.

Sexual harassment and violence against women in the workplace was a problem, particularly as economic conditions worsened, according to a U.N. Development Program (UNDP) report. Sexual harassment in the workplace rarely, if ever, was investigated.

The Constitution provides for the equality of men and women; however, discrimination against women was a problem. The Civil Code gives women and men equal inheritance rights. Divorce is legal and can be initiated by either a husband or wife. Younger women reported that the economic balance had shifted in their favor because many traditionally male jobs had disappeared due to the depressed economy. Women's access to the labor market had improved but remained primarily confined, particularly for older women, to low-paying and low-skilled positions, often without regard to high professional and academic qualifications. As a result, many women sought employment abroad. Salaries for women continued to lag behind those of men. Reportedly men were given preference in promotions. Of the more than 150,000 registered unemployed persons throughout the country, 48 percent were women. Women sometimes, but not often, filled leadership positions. According to the UNDP, employers frequently withheld benefits connected to pregnancy and childbirth.

A number of NGOs promoted women's rights, including the women's group of the Georgian Young Lawyers' Association, the Women's Center, and Women for Democracy. Women's NGOs took an active role in the 1999 parliamentary election, the 2001 by-elections, and the 2002 local and municipal elections, engaging candidates in discussions about issues of concern. Posters urging women to vote were a prominent part of the publicity campaign.

## Children

The law provides for the protection of children's rights and welfare, and in 2002, the Government introduced a plan to emphasize children's issues; however, funding shortages limited its implementation and government services for children were extremely limited. While education was officially free through high school, many parents were unable to afford books and school supplies, and most parents were forced to pay some form of tuition or teachers' salaries. Bribery was endemic in the education system. Most children of school age attended school; however, in some places schools did not function or functioned sporadically because teachers were not paid and facilities were inadequate, particularly in winter when some schools could not afford to heat buildings. Many schools lacked libraries or even blackboards. Free health care was available only for children over the age of 3.

There were some reports of abuse of children, particularly street children, although there was no societal pattern of such abuse. Difficult economic conditions broke up some families and increased the number of street children.

The Criminal Code states that child prostitution and pornography are punishable by imprisonment for up to 3 years.

There were unconfirmed reports of trafficking in children (see Section 6.f.).

A local NGO estimated that there were approximately 1,500 street children in the country, with 1,200 concentrated in Tbilisi, due to the inability of orphanages and the Government to provide support. The private voluntary organization Child and Environment and the Ministry of Education each operated a shelter; however, the two shelters could accommodate only a small number of street children. No facilities existed outside of Tbilisi. Street children often survived by turning to criminal activity, narcotics, and prostitution. The Government took little other action to assist street children.

The lack of resources affected orphanages as well. Children received inadequate food, clothing, education, and medical care; facilities lacked heat, water, and electricity. The staff was paid poorly, and wages were many months in arrears. Staff members often diverted money and supplies provided to the orphanages for personal use. Orphaned children in government institutions were not eligible for foreign adoption.

The Isolator detention facility for street children in Gldani was overcrowded, and other children and guards frequently abused juvenile detainees (see Section 1.c.). There were no confirmed reports of police violence against street children this year.

## Persons with Disabilities

There is no legislated or otherwise mandated provision requiring access for persons with disabilities; however, the law mandates that the State ensure appropriate conditions for persons with disabilities to use freely the social infrastructure and to ensure proper protection and support. The law includes a provision of special discounts and favorable social policies for persons with disabilities, particularly veterans; however, many facilities remained closed due to lack of funding. Most persons with disabilities were supported by family members or by international humanitarian donations. Societal discrimination against persons with disabilities existed.

## National/Racial/Ethnic Minorities

The Government generally respected the rights of members of ethnic minorities in non-conflict areas but limited self-government and played a weaker role in ethnic Armenian and Azeri areas (see Section 3). School instruction in non-Georgian languages was permitted. A draft language law that would make knowledge of Georgian compulsory for persons employed by state institutions remained under discussion in Parliament at year's end.

The State Language Chamber was tasked with organizing free language courses for government employees in regions inhabited by ethnic minorities. During the year, most of the planned language courses were cancelled due to lack of funding, although several took place in Kvemo Kartli. The OSCE continued a project to support government programs to teach the Georgian language to ethnic minorities. Armenians, on occasion, complained that they were being forced to learn Georgian.

## Section 6 Worker Rights

### a. The Right of Association

The Constitution and the law provide for the right of citizens to form and join trade unions, and workers exercised this right.

The principal trade union confederation was the Amalgamated Trade Unions of Georgia (ATUG), which was the successor to the official union that existed during the Soviet period. The ATUG consisted of 31 sectoral unions. The organization officially claimed 600,000 members, but acknowledged that the number of active, dues-paying members was lower. The union had no affiliation with the Government and received no government funding (except for support to send 200 children each year to summer camp). There were two trade unions in addition to the ATUG: The Free Trade Union of Teachers of Georgia Solidarity

(FTUTGS) based in Kutaisi; and the Independent Trade Union of Metropolitan Employees.

The law prohibits discrimination by employers against union members, and employers may be prosecuted for anti-union discrimination and forced to reinstate employees and pay back wages; however, the ATUG and its national unions reported frequent cases of management warning staff not to organize trade unions. Some workers, including teachers in the Imereti region, employees of various mining, winemaking, pipeline, and port facilities and the Tbilisi municipal government reportedly complained of being intimidated or threatened by employers for union organizing activity. Observers also claimed that employers failed to transfer compulsory union dues, deducted from wages, to union bank accounts. The Ministry of Labor investigated some complaints but took no action against any employers.

There are no legal prohibitions against affiliation and participation in international organizations. The ATUG was a full member of the International Confederation of Free Trade Unions (ICFTU).

#### b. The Right to Organize and Bargain Collectively

The Constitution and the law allow workers to organize and bargain collectively, and some workers exercised this right; however, the practice of collective bargaining was not widespread.

There are some restrictions on the right to strike; however, some strikes took place during the year. For example, the ATUG supported public sector strikes by teachers, medical service employees, and energy sector workers, most of which were wildcat actions. During the year, teachers went on strike for unpaid wages. Energy workers went on strike to demand unpaid wages and increased salaries.

There are no export processing zones.

#### c. Prohibition of Forced or Bonded Labor

The Constitution prohibits forced or bonded labor, including by children, and provides for sanctions against violators; however, there were reports that such practices occurred (see Section 6.f.).

#### d. Status of Child Labor Practices and Minimum Age for

### Employment

According to the law, the minimum age for employment of children is 16 years; however, in exceptional cases, the minimum age can be 14 years. The Ministry of Health, Social Service, and Labor enforces these laws and generally they were respected.

The Government has not ratified the ILO Convention 182 on the worst forms of child labor.

#### e. Acceptable Conditions of Work

The state minimum wage was \$10.80 (20 GEL) a month. There was no state-mandated minimum wage for private sector workers. The minimum wage was not sufficient to provide a decent standard of living for a worker and family. In general, salaries and pensions were insufficient to meet basic minimum needs for a worker and family.

Average wages in private enterprises were \$75 to \$100 (150 to 200 GEL) monthly; in state enterprises, \$15 to \$30 (30 to 60 GEL). Unreported trade activities, assistance from family and friend networks, and the sale of personally grown agricultural products often supplemented salaries.

The old Soviet Labor Code, still in effect with some amendments, provides for a 41-hour workweek and for a weekly 24-hour rest period. The labor code permits higher wages for hazardous work and permits a worker to refuse duties that could endanger life without risking loss of employment; however, in practice these protections were rarely, if ever, enforced.

#### f. Trafficking in Persons

The law prohibits trafficking in persons; however, the country was both a source and transit country for trafficked persons. There were unconfirmed reports that government customs and border officials were involved in the trafficking of persons.

Parliament passed amendments to the Criminal Code in June criminalizing trafficking in persons. The Government has initiated two cases under this article in the Criminal Code, but they were not brought to trial by year's end. The Government initiated several cases against some traffickers using fraud statutes. In January, the Government announced its Action Plan for Combating the Trafficking of Persons. A National Security Council official designated to lead the campaign held government wide meetings in June and assigned Ministry representatives with the specific tasks outlined in the Action Plan.



In 2002, the MIA created a seven-person unit specifically to combat trafficking. The unit received support from the American Bar Association's Central and Eastern European Law Initiative, the International Organization for Migration (IOM), and other organizations. Local NGOs worked closely with the Public Defender's office, the body primarily responsible for referring victims to prosecuting authorities.

Women were trafficked from the country to Turkey, Greece, Israel, and Western Europe to work in bars, restaurants, or as domestic help. Many worked in the adult entertainment sector or as prostitutes. There also was evidence that Russian and Ukrainian women were trafficked through the country to Turkey, sometimes using fraudulently obtained passports. There were reports of Russian and Ukrainian women being sent to beach resorts in the summer months to work as prostitutes; however, the country was generally not a destination for trafficked persons. There were some unconfirmed reports of trafficking of children. Some of the latest IOM reporting suggests men may be trafficked in higher numbers than women. A small scale study conducted in the eastern region provided details on men trafficked for laborers to southern Russia, including Chechnya. Others traveled to Greece as agricultural laborers; yet the Government's consular officials reported the trafficked victims still refused to return home, because their substandard wages and working conditions still surpassed conditions there.

Jobs abroad offered through tourism firms or employment agencies often lured trafficked persons. Many of the women working in the adult entertainment sector as prostitutes were informed, or led to believe, that they would be employed as waitresses in bars and restaurants or as domestic help.

There were no government programs to help victims; however, there were several NGOs involved in aiding victims. One internationally funded NGO opened a hotline offering psychological support and assistance to victims. The Government initiated some anti-trafficking training for police in the regions and created a working group with the NGO community and funded by the OSCE to draft additional legislation including protections for victims' rights. The Government also operated a hotline that is directly connected to the Ministry of Interior's Anti-Trafficking Unit. These officers have also received anti-trafficking training, yet few victims began to call the police and report these crimes.